



## Senate

General Assembly

**File No. 562**

February Session, 2002

Substitute Senate Bill No. 563

*Senate, April 24, 2002*

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING LAND AND OPEN SPACE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 12-504a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2002*):

4 (a) Any land which has been classified by the record owner thereof  
5 as open space land pursuant to section 12-107e, as amended, if sold by  
6 him within a period of ten years from the time he first caused such  
7 land to be so classified, shall be subject to a conveyance tax applicable  
8 to the total sales price of such land, which tax shall be in addition to  
9 the tax imposed under sections 12-494 to 12-504, inclusive. Said  
10 conveyance tax shall be at the following rate: (1) Ten per cent of said  
11 total sales price if sold within the first year following the date of such  
12 classification; (2) nine per cent if sold within the second year following  
13 the date of such classification; (3) eight per cent if sold within the third

14 year following the date of such classification; (4) seven per cent if sold  
15 within the fourth year following the date of such classification; (5) six  
16 per cent if sold within the fifth year following the date of such  
17 classification; (6) five per cent if sold within the sixth year following  
18 the date of such classification; (7) four per cent if sold within the  
19 seventh year following the date of such classification; (8) three per cent  
20 if sold within the eighth year following the date of such classification;  
21 (9) two per cent if sold within the ninth year following the date of such  
22 classification; and (10) one per cent if sold within the tenth year  
23 following the date of such classification. No conveyance tax shall be  
24 imposed on such record owner by the provisions of sections 12-504a to  
25 12-504f, inclusive, as amended, following the end of the tenth year  
26 after the date of such classification by such record owner. No  
27 conveyance tax shall be imposed on such record owner by the  
28 provisions of sections 12-504a to 12-504f, inclusive, as amended by this  
29 act, upon the sale of such property to the municipality pursuant to the  
30 provisions of section 12-107e, as amended. Notwithstanding any other  
31 provision of the general statutes, any moneys collected by a  
32 municipality pursuant to this subsection shall be used for the purchase  
33 of open space within such municipality.

34 Sec. 2. Section 7-131b of the general statutes is repealed and the  
35 following is substituted in lieu thereof (*Effective October 1, 2002*):

36 (a) Any municipality may, by vote of its legislative body, by  
37 purchase, condemnation, gift, devise, lease or otherwise, acquire any  
38 land in any area designated as an area of open space land on any plan  
39 of development of a municipality adopted by its planning commission  
40 or any easements, interest or rights therein and enter into covenants  
41 and agreements with owners of such open space land or interests  
42 therein to maintain, improve, protect, limit the future use of or  
43 otherwise conserve such open space land.

44 (b) Any owner who encumbers his property by conveying a less  
45 than fee interest to any municipality under subsection (a) of this  
46 section or to a nonprofit land conservation organization shall, upon

47 written application to the assessor or board of assessors of the  
48 municipality in which the property is located, be entitled to a  
49 revaluation of such property to reflect the existence of such  
50 encumbrance, effective with respect to the next-succeeding assessment  
51 list of such municipality. Any such owner shall be entitled to such  
52 revaluation, notwithstanding the fact that he conveyed such less than  
53 fee interest prior to October 1, 1971, provided no such revaluation shall  
54 be effective retroactively.

55 (c) Any owner aggrieved by a revaluation under subsection (b) of  
56 this section may appeal to the board of assessment appeals in  
57 accordance with the provisions of sections 12-111, as amended, and 12-  
58 112 and may appeal from the decision of the board of assessment  
59 appeals in accordance with the provisions of section 12-117a.

60 Sec. 3. Subsection (b) of section 7-131g of the general statutes, as  
61 amended by section 9 of public act 01-204 and section 73 of public act  
62 01-9 of the June special session, is repealed and the following is  
63 substituted in lieu thereof (*Effective October 1, 2002*):

64 (b) The Commissioner of Environmental Protection may make  
65 grants under the open space and watershed land acquisition program  
66 to: (1) Municipalities for acquisition of land for open space under  
67 subdivisions (1) to (6), inclusive, of subsection (b) of section 7-131d, as  
68 amended, in an amount not to exceed fifty per cent of the fair market  
69 value of a parcel of land or interest in land proposed to be acquired; (2)  
70 municipalities for acquisition of land for class I and class II water  
71 supply protection under subdivision (5) of subsection (b) of said  
72 section 7-131d, in an amount not to exceed [sixty-five] fifty per cent of  
73 such value; (3) nonprofit land conservation organizations for  
74 acquisition of land for open space or watershed protection under  
75 subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-  
76 131d, in an amount not to exceed fifty per cent of such value; (4) water  
77 companies for acquisition of land under subdivision (7) of subsection  
78 (b) of said section 7-131d, in an amount not to exceed [forty] fifty per  
79 cent of such value provided if such a company proposes in a grant

80 application that it intends to allow access to such land for recreational  
81 uses, such company shall seek approval of the Commissioner of Public  
82 Health for such access; and (5) distressed municipalities or targeted  
83 investment communities, as defined in section 32-9p, as amended, or,  
84 with the approval of the chief elected official or governing legislative  
85 body of such a municipality or community, to a nonprofit land  
86 conservation organization, for acquisition of land within that  
87 municipality or community, for open space under subdivisions (1) to  
88 (6), inclusive, of subsection (b) of said section 7-131d, in an amount not  
89 to exceed sixty-five per cent of such value or for performance of work  
90 in the restoration, enhancement or protection of resources in an  
91 amount not to exceed fifty per cent of the cost of such work.  
92 Applicants for grants under the program shall provide a copy of the  
93 application to the chairperson of the review board established under  
94 section 7-131e, as amended. The board shall provide comments to the  
95 commissioner on pending applications as it deems necessary.

96 Sec. 4. Section 12-504c of the general statutes is repealed and the  
97 following is substituted in lieu thereof (*Effective October 1, 2002*):

98 The provisions of section 12-504a, as amended by this act, shall not  
99 be applicable to the following: (a) Transfers of land resulting from  
100 eminent domain proceedings; (b) mortgage deeds; (c) deeds to or by  
101 the United States of America, state of Connecticut or any political  
102 subdivision or agency thereof; (d) strawman deeds and deeds which  
103 correct, modify, supplement or confirm a deed previously recorded; (e)  
104 deeds between husband and wife and parent and child when no  
105 consideration is received, except that a subsequent nonexempt transfer  
106 by the grantee in such cases shall be subject to the provisions of section  
107 12-504a, as amended by this act, as it would be if the grantor were  
108 making such nonexempt transfer; (f) tax deeds; (g) deeds releasing any  
109 property which is a security for a debt or other obligation; (h) deeds of  
110 partition; (i) deeds made pursuant to a merger of a corporation; (j)  
111 deeds made by a subsidiary corporation to its parent corporation for  
112 no consideration other than the cancellation or surrender of the capital  
113 stock of such subsidiary; (k) property transferred as a result of death

114 by devise or otherwise and in such transfer the date of acquisition or  
115 classification of the land for purposes of sections 12-504a to 12-504f,  
116 inclusive, as amended by this act, whichever is earlier, shall be the date  
117 of acquisition or classification by the decedent; (l) deeds to any  
118 corporation, trust or other entity, of land to be held in perpetuity for  
119 educational, scientific, aesthetic or other equivalent passive uses,  
120 provided such corporation, trust or other entity has received a  
121 determination from the Internal Revenue Service that contributions to  
122 it are deductible under applicable sections of the Internal Revenue  
123 Code; (m) land subject to a covenant specifically set forth in the deed  
124 transferring title to such land, which covenant is enforceable by the  
125 town in which such land is located or by a nonprofit land conservation  
126 organization, to refrain from selling or developing such land in a  
127 manner inconsistent with its classification as farm land pursuant to  
128 section 12-107c, as amended, forest land pursuant to section 12-107d,  
129 as amended, or open space land pursuant to section 12-107e, as  
130 amended, for a period of not less than eight years from the date of  
131 transfer, if such covenant is violated the conveyance tax set forth in  
132 this chapter shall be applicable at the rate which would have been  
133 applicable at the date the deed containing the covenant was delivered  
134 and, in addition, the town or any taxpayer therein may commence an  
135 action to enforce such covenant; and (n) land the development rights to  
136 which have been sold to the state under chapter 422a. If such action is  
137 taken by such a taxpayer, the town shall be served as a necessary  
138 party.

139 Sec. 5. Subsection (a) of section 23-75 of the general statutes is  
140 repealed and the following is substituted in lieu thereof (*Effective*  
141 *October 1, 2002*):

142 (a) The Commissioner of Environmental Protection shall acquire  
143 land by purchase, gift or devise for the purposes set forth in section 23-  
144 74. The title to any land acquired pursuant to sections 23-73 to 23-79,  
145 inclusive, shall be vested in the state. In determining whether sites  
146 shall be acquired, the department shall consider whether the site is: (1)  
147 Identified as having high priority recreation, forestry, fishery, wildlife

148 or conservation value, including, but not limited to, the conservation of  
149 grasslands and as being consistent with the state comprehensive plan  
150 for outdoor recreation and the state plan of conservation and  
151 development; (2) a prime natural feature of the Connecticut landscape,  
152 such as a major river, its tributaries and watershed, mountainous  
153 territory, an inland or coastal wetland, a significant littoral or estuarine  
154 or aquatic site or any other important geologic feature; (3) habitat for  
155 native plant or animal species listed as threatened or endangered or of  
156 special concern in the data base or pursuant to the program established  
157 under section 26-305, particularly areas identified as essential habitat  
158 for such species; (4) a relatively undisturbed outstanding example of a  
159 native ecological community which is now uncommon; or (5)  
160 threatened with conversion to incompatible uses or contains sacred  
161 sites or archaeological sites of state or national importance. In  
162 acquiring a site that has been identified as having a high priority  
163 recreation value, the department shall give priority to sites near  
164 population centers.

165 Sec. 6. Subsection (f) of section 25-32 of the general statutes is  
166 repealed and the following is substituted in lieu thereof (*Effective July*  
167 *1, 2002*):

168 (f) Nothing in this section shall prevent the lease or change in use of  
169 water company land to allow for recreational purposes that do not  
170 require intense development or improvements for water supply  
171 purposes, for leases of existing structures, or for radio towers or  
172 telecommunications antennas on existing structures. For purposes of  
173 this subsection, intense development includes golf courses, driving  
174 ranges, tennis courts, ballfields, swimming pools and uses by  
175 motorized vehicles, provided trails or pathways for pedestrians,  
176 motorized wheelchairs or nonmotorized vehicles shall not be  
177 considered intense development. In executing a lease of an existing  
178 structure in accordance with this subsection, a water company may  
179 grant an easement, a declaration of covenant or a declaration of  
180 preservation restriction to the state, through the Connecticut Historical  
181 Commission or any state agency, to effect a preservation restriction, as

182 defined in section 47-42a, that is required as a condition to granting the  
183 lessee a grant-in-aid pursuant to section 10-320d or similar subsequent  
184 grant-in-aid program. A water company may grant the state a lien on  
185 such leased structures to secure repayment of any grant-in-aid upon  
186 the failure by the lessee to fulfill the terms of the grant.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>July 1, 2002</i>

**FIN**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Fund-Type</b>	<b>Agency Affected</b>	<b>FY 03 \$</b>	<b>FY 04 \$</b>
GO Bond Fund	Department of Environmental Protection	See Below	See Below
Revenue Loss	Department of Revenue Services	Minimal	Minimal

#### ***Municipal Impact:***

<b>Effect</b>	<b>Municipalities</b>	<b>FY 03 \$</b>	<b>FY 04 \$</b>
Potential Revenue Loss	All	See Below	See Below

### ***Explanation***

There is a minimal revenue loss to the state and municipalities as a result of the bill exempting sales of open space land to municipalities from the Real Estate Conveyance Tax. The section also earmarks any real estate conveyance tax collected by municipalities on the sales of open space to be used for the purchase of open space as opposed to being deposited into a town's operating or general fund.

Changing the grant amounts that the DEP can award to municipalities for certain types of acquisitions (from 65% to 50% of land value) and non-profits (from 40% to 50% of land value) could decrease funds to certain municipalities. The overall impact is anticipated to be minimal. There is \$15 million in GO bond funds authorized under the state's program for grants-in-aid for acquisition of open space for FY 03.



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**OLR Bill Analysis**

sSB 563

**AN ACT CONCERNING LAND AND OPEN SPACE****SUMMARY:**

This bill:

1. prohibits a town from imposing a conveyance tax on land sold within 10 years after it was classified as open space land when it is sold to the town where it is located;
2. requires a municipality to use all money it collects from the conveyance tax on land classified as open space that the owner sells to someone other than the town in which it is located to purchase open space;
3. changes grant amounts that the environmental protection commissioner may award to municipalities and nonprofit agencies for certain land acquisitions to 50% of the land's value;
4. allows a landowner to have open space land revalued when it is conveyed without title (e.g., an easement) as open space to a nonprofit land conservation organization;
5. exempts land conveyed with a deed restriction from conveyance tax if the restriction (to refrain from selling or developing the land contrary to its classification as forest, farmland, or open space for at least eight years) is enforceable by a nonprofit land conservation organization;
6. adds conservation of grasslands to the factors the environmental protection commissioner must consider when deciding whether to acquire certain land; and
7. allows water companies to give an easement, covenant, or preservation declaration to the state to preserve land when executing the lease of an existing structure.

EFFECTIVE DATE: October 1, 2002, except for the provision on water company leases, which is effective July 1, 2002.

**CONVEYANCE TAX**

Current law imposes a sliding-scale conveyance tax for selling open space land before a 10-year period passes after it was so designated. Under the bill, a town may not impose the tax if the owner sells the land to the municipality where it is located.

### **OPEN SPACE PRIVATE PROPERTY REVALUATION**

Under current law, an owner who agrees to maintain property as open space by conveying an interest in it (e.g., an easement) without conveying the title to a town may apply to the assessor or board of assessors for a revaluation that reflects the encumbrance. The revaluation becomes effective at the time of the municipality's next assessment list. The bill makes an owner's agreement with a nonprofit land conservation organization an encumbrance for which he may also request revaluation.

The bill also specifies that the assessor or board of assessors performing the revaluation must be from the municipality in which the property is located.

### **LAND ACQUISITION GRANTS**

The bill changes grant amounts that the environmental protection commissioner may award to municipalities and nonprofit agencies for certain types of land acquisition. Under current law, (1) municipalities acquiring land for class I or class II water supply protection may receive grants of 65% of the land's value and (2) water companies may receive grants of 40% of the land's value when acquiring land they intend to allow access to for recreational use. The bill changes both these grant amounts to 50% of the land's value.

### **NONPROFIT LAND CONSERVATION ORGANIZATION**

By law, land whose title has been transferred by a deed covenant restricting its use for at least eight years to farmland, forest, or open space is exempt from conveyance tax if the town can enforce the restriction. The bill exempts such land from the tax when a nonprofit land conservation organization can enforce the restriction. By law, if the covenant is violated, the owner must pay the tax and the town (and under the bill, the nonprofit) can enforce the covenant.

### **WATER COMPANY LAND LEASE**

The bill allows water companies to give an easement, declaration of covenant, or a declaration of preservation to the state to preserve land (through the Connecticut Historical Society or any state agency) when leasing an existing structure. The lessee must honor preservation restrictions to qualify for state grant-in-aid programs that allow for a maximum of 50% of available federal money for the restoration and maintenance of historical structures. The bill allows a water company to grant the state a lien on such leased structures to secure repayment of any grant-in-aid when the lessee fails to fulfill the terms of the grant.

## **BACKGROUND**

### ***Legislative History***

On April 10, the Senate referred the bill (file 281) to the Finance, Revenue and Bonding Committee. That committee deleted a section of the bill that gave a town first refusal to purchase land it had previously identified for open space use and wanted to acquire for open space.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 22      Nay 5

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 45      Nay 0